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Attorney Docket No.: DEX-0172
Inventors: Salceda et al.
Serial No.: 09/763,978
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REMARKS

Claims 1-13 are pending in the instant application. Claims 1-13 have been subjected to a Restriction Requirement as follows:

Group I-IX, claims 1-8 in part, drawn to methods of diagnosing, staging, monitoring cancer by measuring SEQ ID NO:1, 2, 3, 9, 10, 11, 12, 13, or 14, respectively, and the measuring is by the polynucleotide;

Group X-XVIII, claims 1-8 in part, drawn to methods of diagnosing, staging, monitoring cancer by measuring SEQ ID NO:1, 2, 3, 9, 10, 11, 12, 13, or 14, respectively, and the measuring is by the polypeptide;

Groups XIX-XXVII, claim 9 in part, drawn to an antibody to SEQ ID NO:1, 2, 3, 9, 10, 11, 12, 13, or 14, respectively;

Groups XXVIII-XXXVI, claims 10-11 in part, drawn to a method of imaging using an antibody to SEQ ID NO:1, 2, 3, 9, 10, 11, 12, 13, or 14, respectively; and

Groups XXXVII-XXXXV, claims 12-13 in part, drawn to a method of treating cancer using an antibody to SEQ ID NO:1, 2, 3, 9, 10, 11, 12, 13, or 14, respectively.

The Examiner suggests that the Groups above do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.22, they lack the same corresponding special

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technical feature. In particular, the Examiner suggests that the technical feature of claim 1 is not special in light of Yu et al. Further, the Examiner suggests that the Groups are distinct.

Applicants respectfully traverse this restriction requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all the claims, at least when limited to elected nucleic acids or polypeptides, is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

In addition, with respect to restriction to a single sequence, MPEP § 803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Accordingly, withdrawal of this sequence election requirement and reconsideration to include all of the sequences claimed herein, namely SEQ ID NO:1, 2, 3, 9,

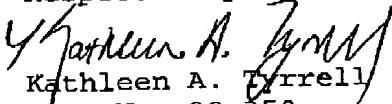
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10, 11, 12, 13, or 14, in accordance with MPEP § 803.04 is also respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group X, claims 1-8, drawn to methods of diagnosing, staging, monitoring cancer by measuring SEQ ID NO:1, and the measuring is by the polypeptide, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,


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